

On motion, the Senate adjourned until to-morrow 10 o'clock
A.M.

SENATE CHAMBER, }
SATURDAY, March 7, 1846. }
10 o'clock, A. M.

Senate met pursuant to adjournment, roll called, and a quorum present.

Journals of the preceding day read and adopted.

Senator Hogg, one of the committee on the Judiciary, to whom was referred a bill, to be entitled, an act to legalize and make valid the official acts of Chief and Associate Justices, while sitting as a board of Land Commissioners, between the 1st Monday of September, 1845, and the 1st day of January, 1846: reported the same back to the Senate by substitute, and recommended its passage—also, a joint resolution, concerning the protection of the frontier; reported the same to the Senate by substitute, and recommended its passage—also, an act to exempt from taxation \$250 worth of household furniture and other property, reported the same with the following amendment and recommended its passage: in 4th line, after the word “other” add “personal.”

Senator Wallace, one of the committee on Public Lands, reported a bill to be entitled, an act to place volunteers in the naval service on the same footing as volunteers in the army, and recommended its indefinite postponement; bill and report laid on the table until Monday next.

To the Honorable the President of the Senate:

The committee have prepared a report on this subject, that may well accord with the opinions and feelings of the government of the United States, of which Texas is now a component part, and doubtless with those of a large majority of the people of Texas. Though the giving of general satisfaction ought to be a primary object of a representative's desire, there is another object worthy of his most attentive consideration, which seeming to be paramount, impels this committee-man, while very reluctantly differing from the majority of the committee, relative to the interpretation of the resolutions of the

United States government upon the subject of annexation, to venture the utterance of opinions in which few, perhaps none, will concur with him.

That under these resolutions, the people of Texas, through the medium indicated by the United States, did agree to have "all the vacant and unappropriated land lying within the limits of the Republic of Texas, applied to the payment of the debts and liabilities of said Republic," is too plainly expressed to admit of a doubt; but this compact is susceptible of two rational interpretations, one of which is adopted by the committee and contained in the report, the other will be set forth briefly herein.

There is no diversity of opinion among the committee, in regard to the application of the public domain to the definite purpose expressed, but there is, in reference to the extent of the application, and to the cases in which it shall be made. The term "debts" is definite, and embraces all amounts that have been or may be ascertained to be due as arrearage against the Republic, and is exclusively of pecuniary import, while the term "liabilities" is of indefinite generic import and embraces demands for money, lands, &c.

It was unquestionably contemplated, that lands should be sold for or converted into *money*, that the debts or demands for *money* existing against the Republic, should be discharged in *money*; but assuredly it was not nor can it be conceived to be necessary that land should be sold for money, in order to create or raise the proper means for discharging a liability of the Republic for land; particularly since such a measure would ultimately defeat one of the objects embraced in the resolutions, and convert every liability for land into an unliquidated uncertain demand for money. Neither would it comport with the spirit or intent of the resolutions, to postpone the settlement of a liability for land against the Republic of Texas, until all the pecuniary demands had been paid out of the proceeds of a sale of the public domain. To adopt a plan so destructive of the interests of a meritorious soldiery, and of impoverished emigrants, could not be tolerated in a land where law has supremacy, or where private rights, that had been acquired under compact and been valorously sustained through sanguinary conflicts, were recognized as having a warrantable existence. Nor can this member of the committee, properly decline expressing his opinion as to the correct interpretation of the phrase "all the vacant and unappropriated lands:" land occupied and unclaimed is "vacant," and it is "unappropriated"

when the government has not disposed of it or converted it to public use. If all such lands as are not included in one or the other of these two descriptions contained in the resolutions, and to be applied according to a liberal interpretation of them, were set apart for pecuniary liabilities, it would necessarily interdict the location of headright certificates, bounty warrants, land scrip, &c. Liabilities of this kind, are from their date effective as contracts between the grantees or holders and the government, and may be considered as divesting the government of power to alienate any and all such parcels of land as have been actually surveyed, and included within marked lines, by virtue of one of them.

The government of Texas will not commit so flagrant an act of injustice towards her citizens, as to disallow or postpone such "liabilities" for the literal perfecting whereof by patent her faith is virtually pledged to them severally, in order to deceive the world into the belief that her integrity ought not to be doubted, if she strictly fulfil according to a circumscribed construction, her expressed stipulations with the United States. Nor will the consequences be varied by affirming that the people of Texas tacitly acceded to such terms, by casting off the robe of independent sovereignty and assuming the rank of a State in the North American confederacy; for this act, though declarative of their ardent attachment to the land of their nativity, did equally evince their desire to disburden Texas; and to this end they magnanimously consented to set apart *their all*, the whole *unincumbered public domain*, for the payment of the pecuniary liabilities of the Republic, rather than repudiate debts which could not be paid by other means.

When it is seen then, that the people of Texas were guided by honor in reference to money demands for which their government was liable, it is treason against their integrity and rectitude of purpose, to attribute to them a disregard of private individual claims to the soil which their valor won.

The State of Texas cannot now originate a claim to land by donation, where there is no pre-existing right, without violating the compact; but if there were a legal claim against the Republic for land, the State will not be estopped by the compact from having it surveyed and patented, without cost to the grantee.

Many acts have been past for the purpose of granting and securing lands to volunteers in the land service; and the appellation of *soldier* in these acts is mainly used in contradis-

inction from that of *sailor* or *marine*. In no one of them is to be found any provisions of the kind in favor of volunteers in the naval or sea service of Texas: hence it is thought that volunteers of the latter description were not casually omitted. That they were as meritorious as those in the land service cannot be questioned, but as no provision in land has hitherto been extended to them by legislation, their equitable claims upon the country must of necessity be postponed, until the "debts and liabilities" of the Republic shall have been discharged; or else must be disposed of by appropriating to their relief money as an equivalent for the land for which they have asked.

The financial condition of the State will not justify the Legislature in making now an appropriation in money, in the opinion of this member of the committee; he therefore concurs with the other members in recommending the indefinite postponement of the bill.

B. RUSH WALLACE,
One of the Committee.

Senator Hogg, Chairman of the committee on the Judiciary, to whom was referred a bill, to be entitled, an act to authorize District Clerks to issue remedial process; reported the same and recommended its rejection; also, a bill to reduce the license tax, and recommended its rejection.

On motion, the report was adopted.

Senator Parker introduced a bill to be entitled, an act to provide for the transfer of legal proceedings from old to new counties; read 1st time.

Senator McKinney introduced a bill, to be entitled, an act to provide for all funds in the hands of public receivers of public revenue, to be paid into the treasury; read 1st time.

ORDERS OF THE DAY.

A bill to authorize parties to suits, to appear therein in person; read 2d time and ordered to be engrossed.

A bill to be entitled, an act creating the county of Cherokee; laid on the table until Monday 11 o'clock.

A bill to be entitled, an act to exclude from office, and from the right of suffrage, certain persons convicted of certain crimes, &c.; read 3d time and passed.

Joint resolution instructing our Senators and Representatives in Congress, to procure the establishment of certain mail routes; read 3d time and passed.

A bill to be entitled, an act creating the county of Polk; read 3d time and passed.

A bill to be entitled, an act to create the county of Saline; laid on the table until Monday.

A bill to be entitled, an act to repeal the statutes on rents; read 2d time and referred to Judiciary committee.

A bill to be entitled, an act to provide for the more certain collection of all unpaid taxes on land; read 2d time and referred to committee on Finance.

A bill to be entitled, an act to provide for the change of venue in civil and criminal cases; on 2d reading.

Senator Wallace moved to strike out "three" and insert two" in 1st section of the bill.

The yeas and nays being called for stood thus:

Yeas. Senators, Burleson, Hogg, McKinney, Wallace, Wood—5.

Nays. Senators, Bagby, Bourland, Brashear, Cuney, Jewett, Kinney, Miller, Navarro, Parker, Phillips, Robinson, Scott, and Williams—13. Refused to strike out.

Senator Parker, offered the following amendment: insert after the word "county" in 2d section, "not related by consanguinity or affinity to the parties;" adopted.

Senator Hogg, moved to strike out the proviso in the last section of the bill.

Yeas. Senators Bagby, Brashear, Burleson, Hogg, McKinney, Navarro, Parker, Wallace and Wood—9.

Nays. Senators Bourland, Cuney, Jewett, Kinney, Miller, Robinson, Phillips, Scott and Williams—9; motion lost.

On motion, bill laid on table until Monday.

A bill to be entitled, an act incorporating the Galveston and Virginia Point Bridge Company, reported by substitute; substitute adopted and ordered to be engrossed.

A bill from the House, to be entitled, an act to legitimate a certain child named Mary &c.; read 2d time and referred to Select committee; Senators McKinney, Jewett and Kinney.

A bill to be entitled, an act to establish courts of conciliation; read 2d time and referred to Judiciary committee.

On motion of Senator Phillips, a bill to be entitled, an act to provide for the enumeration of the free inhabitants of the State of Texas, was taken up and referred to Judiciary committee.

Senator McKinney, one of the committee on Finance, to whom was referred a bill, to be entitled, an act to provide an appropriation for the payment of mileage and per diem pay

of members of the Legislature of the State of Texas, reported the same back to the Senate, and recommended its passage with the following amendment: strike out "fifteen thousand" and insert "a sufficient amount of."

On motion of Senator McKinney, Senator Parker was added to the Finance committee.

On motion of Senator Wallace, Senator Bagby was added to the committee on Public Lands.

On motion, Senator Hogg was added to the Select committee of which Senator Kinney is Chairman.

On motion, Senate adjourned until Monday 10 o'clock, A. M.

SENATE CHAMBER,
MONDAY, March 9, 1846.
10 O'CLOCK A. M.

Senate met pursuant to adjournment, roll called and a quorum present.

Journals of the preceding day read and adopted.

Senator Wallace presented the petition of B. J. Thompson praying that the bounty land certificate of John M. Henrie may be made available to him; read and referred to the committee on Claims and Accounts.

Also the petition of B. J. Thompson for the heirs of Patsey Lewis, praying the passage of a law authorizing the Commissioner of the General Land Office to issue a certain patent; read and referred to the committee on Public Lands.

Senator Hogg, Chairman of the Judiciary committee, to whom was referred the amendments of the House to the Senate's bill, to be entitled, an act authorizing the Governor of the State of Texas to cede and transfer to the United States, all the property of what description soever, embraced in and contemplated by the joint resolution of both Houses of the United States Congress, approved 1st March, 1845, and the 8th section, 13 article of the Constitution of the State of Texas, reported, that in the opinion of a majority of the committee, the Senate should refuse to concur in the amendment, inasmuch as the bill as passed by the Senate, strictly conforms to the joint resolutions of the Congress of the United States and the Constitution of this State. The committee are of opinion,